

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

JAMES M. MOLONEY,	)	
	)	
Claimant,	)	<b>IC 2007-008218</b>
v.	)	
	)	
NORTHWEST PRINTING, INC.,	)	<b>FINDINGS OF FACT,</b>
	)	<b>CONCLUSION OF LAW,</b>
Employer,	)	<b>AND ORDER</b>
and	)	
	)	
ADVANTAGE WORKERS COMPENSATION	)	Filed December 21, 2007
INSURANCE COMPANY,	)	
Surety,	)	
Defendants.	)	
_____	)	

**INTRODUCTION**

Pursuant to Idaho Code § 72-506, the Commission assigned this matter to Referee Douglas A. Donohue. He conducted a hearing in Lewiston on December 7, 2007. Claimant did not appear at hearing. Max M. Sheils, Jr., represented Defendants. He moved for a dismissal. After having considered the evidence, the Commission finds that Defendants' motion for dismissal should be GRANTED.

**FINDINGS OF FACT**

1. The Referee held a telephone conference with Claimant and Defendants' counsel on October 1, 2007. Claimant described limited availability for depositions and a hearing. His reasons for his unavailability did not constitute good cause. Nevertheless, accommodating Claimant's limited available dates, a deposition and hearing were scheduled. Claimant expressed a willingness to be available on the scheduled dates. The Referee issued

a notice and an order.

2. Claimant did not appear for his deposition on the date agreed to at the telephone conference. Claimant sent a written message to Defendants' attorney which indicated that he would not appear. (See attached.)

3. Claimant did not appear for the hearing on the date ordered by the Referee. Claimant sent a written message to Defendants' attorney that he would not appear. Claimant did not notify the Referee he would not appear at hearing. (See attached.)

### **CONCLUSION OF LAW AND ORDER**

Claimant's claim is hereby dismissed without prejudice.

DATED this \_21st\_ day of \_\_December\_\_\_\_, 2007.

INDUSTRIAL COMMISSION

\_\_\_\_\_  
James F. Kile, Chairman

\_\_\_\_\_  
/s/ R.D. Maynard, Commissioner

\_\_\_\_\_  
/s/ Thomas E. Limbaugh, Commissioner

ATTEST:

\_\_\_\_\_  
/s/ Assistant Commission Secretary

**FINDINGS OF FACT, CONCLUSION OF LAW, AND ORDER - 2**

### **CERTIFICATE OF SERVICE**

I hereby certify that on the \_\_21st\_ day of \_\_December\_\_\_\_\_, 2007, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSION OF LAW, AND ORDER** was served by regular United States Mail upon each of the following:

James M. Maloney  
P.O. Box 1996  
Clarkston, WA 99403

Max M. Sheils Jr.  
P.O. Box 388  
Boise, ID 83701

db

\_\_\_\_\_/s/\_\_\_\_\_

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JAMES M. MOLONEY, )  
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Claimant, )  
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vs. )  
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NORTHWEST PRINTING, INC., )  
)  
Employer, )  
)  
and )  
)  
ADVANTAGE WORKERS )  
COMPENSATION INSURANCE )  
COMPANY, )  
)  
Surety, )  
)  
Defendants. )

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IC 2007-008218

**ORDER VACATING AND  
RESETTING HEARING**

**FILED**

**OCT 02 2007**

INDUSTRIAL COMMISSION

*Cancel*

Based on a telephone conference held October 1, 2007, the Industrial Commission of the State of Idaho hereby VACATES the hearing set for January 18, 2008, in the above-entitled matter. The hearing is RESET for December 7, 2007, at 2:00 p. m., for one-half day, in Lewiston, Idaho, on the following issues:

1. Whether Claimant has complied with the notice and limitations requirements set forth in Idaho Code § 72-701 through Idaho Code § 72-706, and whether these limitations are tolled pursuant to Idaho Code § 72-604.
2. Whether Claimant suffered an injury caused by an accident arising out of and in the course of employment.
3. Whether the condition for which Claimant seeks benefits was caused by the alleged industrial accident.

COPY

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ISB No. 1772

Attorneys for Defendants

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JAMES M. MOLONEY,

Claimant,

v.

NORTHWEST PRINTING, INC.,

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and

ADVANTAGE WORKERS  
COMPENSATION INSURANCE  
COMPANY,

Surety,  
Defendants.

IC NO. 2007-008218

NOTICE OF DEPOSITION  
OF CLAIMANT

*Cancel*

*Left for Alaska  
on 10/07/07*

*JM*

To: JAMES M. MOLONEY, Claimant:

PLEASE TAKE NOTICE That the Defendants will take the testimony of claimant, JAMES M. MOLONEY at 9:30 a.m., on Tuesday, October 16, 2007, upon oral examination before some officer qualified to administer oaths, at the Industrial Commission Hearing Room, 118 "F" Street, Lewiston, Idaho. Said deposition will continue from day to day until completed. This deposition